IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Contempt Petition NO. 460 OF 2004
in
Writ petition No. 5827 of 2004

Narsing V. Disle .... Petitioner
vs.
Arvind G. Marathe & ors. ... Respondents

N. J. Patil for petitioner
G. M. Sargave for respondent no.2.
D.A. Patil, GP for respondent nos. 3 and 4.

CORAM: D. G. KARNIK **J.**

DATE: 23rd November 2006

P.C.:

1. Heard counsel for the petitioner and the respondents.
2. This contempt petition is fled by the petitioner alleging that the respondents have committed breach of the order dated 22nd July 2004 passed by this court in writ petition no. 5827 of 2004.
3. By order dated 22nd July 2004 this court on agreement of the parties, directed that the petitioner be reinstated in service

with effect from 1st August 2004 and be paid 50% of the backwages from the date of the reinstatement. Learned counsel for the petitioner made two grievances. Firstly he submitted that though the petitioner was reinstated he was not given any work. He secondly submitted that though the respondents were directed to pay 50% back wages the same were not paid and therefore there is a breach.

4. As regards the first grievance it may be noted that in the affidavit in reply dated 30th November 2005 Mr. Deepak B. Ghate, Social Welfare Officer, Zilla Parishad, Sangli has stated on oath that the petitioner was one of the excess teacher and therefore no work was given to him. As per the order of the Division Bench the petitioner was to be reinstated. There was no order that he must be given a particular work. If there is no work still the respondents are liable to pay salary to the petitioner. It is not the grievance of the petitioner that the salary is not paid.

5. As regards non- payment of arrears of back wages in the affidavit in reply the respondents have stated that a sum of Rs.75,945/- was paid to the petitioner as per their

calculation of 50% of the back wages. Learned counsel for the petitioner admits that a sum of Rs.75,945/- was paid to the petitioner. He however, submitted that the said payment was not 50% of the back wages but fell short. On the petitioner pointing out the short fall the respondents have paid to the petitioner further sum of Rs.71034/- vide their letter dated 7th September 2006, the receipt of the same is also admitted by the petitioner. In the circumstances the respondents have complied with the order of the court. The delay was on account of difference in the calculation and it cannot be said that the respondents have committed deliberate breach of the order of the court.

6. For these reasons there is no merit in the contempt petition which is hereby dismissed.

(D.G. KARNIK J.)